

atomic weapons employer, the United States is subrogated for the full amount of any payment of compensation under the EEOICPA to any right or claim that the individual to whom the payment was made may have against any person or entity on account of such illness.

**§ 30.606 Under what circumstances must a recovery of money or other property in connection with an illness for which benefits are payable under the EEOICPA be reported to OWCP?**

Any person who has filed an EEOICPA claim that has been accepted by OWCP (whether or not compensation has been paid), or who has received EEOICPA benefits in connection with a claim filed by another, is required to notify OWCP of the receipt of money or other property as a result of a settlement or judgment in connection with the circumstances of that claim.

**§ 30.607 How is a structured settlement (that is, a settlement providing for receipt of funds over a specified period of time) treated for purposes of reporting the recovery?**

In this situation, the recovery to be reported is the present value of the right to receive all of the payments included in the structured settlement, allocated in the case of multiple recipients in the same manner as single payment recoveries.

**§ 30.608 How does the United States calculate the amount to which it is subrogated?**

The subrogated amount of a specific claim consists of the total money paid by OWCP from the Energy Employees Occupational Illness Compensation Fund with respect to that claim to or on behalf of an employee or eligible surviving beneficiary, less charges for any medical file review (i.e., the physician does not examine the employee) done at the request of OWCP. Charges for medical examinations also may be subtracted if the employee or eligible surviving beneficiary establishes that the examinations were required to be made available to the employee under a statute other than the EEOICPA.

**§ 30.609 Is a settlement or judgment received as a result of allegations of medical malpractice in treating an illness covered by the EEOICPA a recovery that must be reported to OWCP?**

Since an injury caused by medical malpractice in treating an illness covered by the EEOICPA is also covered under the EEOICPA, any recovery in a suit alleging such an injury is treated as a recovery that must be reported to OWCP.

**§ 30.610 Are payments to an employee or eligible surviving beneficiary as a result of an insurance policy which the employee or eligible surviving beneficiary has purchased a recovery that must be reported to OWCP?**

Since payments received by an employee or eligible surviving beneficiary pursuant to an insurance policy purchased by someone other than a liable third party are not payments in satisfaction of liability for causing an illness covered by the EEOICPA, they are not considered a recovery that must be reported to OWCP.

**§ 30.611 If a settlement or judgment is received for more than one medical condition, can the amount paid on a single EEOICPA claim be attributed to different conditions for purposes of calculating the amount to which the United States is subrogated?**

(a) All medical conditions accepted by OWCP in connection with a single claim are treated as the same illness for the purpose of computing the amount to which the United States is subrogated in connection with the receipt of a recovery from a third party, except that an injury caused by medical malpractice in treating an illness covered under the EEOICPA will be treated as a separate injury.

(b) If an illness covered under the EEOICPA is caused under circumstances creating a legal liability in more than one person, other than the United States, a DOE contractor or subcontractor, a beryllium vendor or an atomic weapons employer, to pay damages, OWCP will determine whether recoveries received from one or more third parties should be attributed to

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separate conditions for which compensation is payable in connection with a single EEOICPA claim. If such an attribution is both practicable and equitable, as determined by OWCP, in its discretion, the conditions will be treated as separate injuries for purposes of calculating the amount to which the United States is subrogated.

### ELECTION OF REMEDY AGAINST BERYLLIUM VENDORS AND ATOMIC WEAPONS EMPLOYERS

#### **§ 30.615 Can a claimant receive benefits under the EEOICPA if he or she filed a tort suit against either a beryllium vendor or an atomic weapons employer on or prior to October 30, 2000?**

A claimant who filed a tort suit against either a beryllium vendor or an atomic weapons employer on or prior to October 30, 2000, shall not be eligible to receive benefits under subtitle B of the EEOICPA unless he or she dismisses such suit no later than December 31, 2003.

#### **§ 30.616 Can a claimant receive benefits under the EEOICPA if he or she filed a tort suit against either a beryllium vendor or an atomic weapons employer after October 30, 2000?**

(a) Unless a tort suit filed under paragraphs (b) and (c) of this section is dismissed prior to the time limitations described in those subsections, the plaintiff shall not be eligible to receive benefits under subtitle B of the EEOICPA.

(b) If a claimant files a tort suit against either a beryllium vendor or an atomic weapons employer after October 30, 2000, such a suit must be filed by the later of:

(1) April 30, 2003; or

(2) 30 months after the date the plaintiff first became aware that his or her illness may be connected to the exposure covered by subtitle B of the EEOICPA.

(c) For purposes of this section only, “the date the plaintiff first became aware” will be deemed to be the date he or she received either a reconstructed dose from the HHS, or a diagnosis of a covered beryllium illness, as applicable.

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(d) If a claimant files a tort suit against either a beryllium vendor or an atomic weapons employer after the later of the dates described in paragraphs (b) and (c) of this section, he or she is not entitled to any benefits under subtitle B of the EEOICPA.

#### **§ 30.617 How will OWCP ascertain whether a claimant filed a tort suit against either a beryllium vendor or an atomic weapons employer and whether such claimant is entitled to benefits under the EEOICPA?**

Prior to authorizing any payment on a claim under § 30.505 of these regulations, OWCP will require the claimant or each surviving beneficiary to execute and provide an affidavit stating whether he or she filed a tort suit against either a beryllium vendor or an atomic weapons employer, and if so, the date such tort suit was dismissed. OWCP may require the submission of such supporting evidence as may be necessary to confirm the particulars of any affidavit provided under this section.

### **Subpart H—Information for Medical Providers**

#### MEDICAL RECORDS AND BILLS

#### **§ 30.700 What kinds of medical records must providers keep?**

Federal government medical officers, private physicians and hospitals are required to keep records of all cases treated by them under the EEOICPA so they can supply OWCP with a history of the claimed occupational illness, a description of the nature and extent of the claimed occupational illness, the results of any diagnostic studies performed, and the nature of the treatment rendered.

#### **§ 30.701 How are medical bills to be submitted?**

(a) All charges for medical and surgical treatment, appliances or supplies furnished to employees, except for treatment and supplies provided by nursing homes, shall be supported by medical evidence as provided in § 30.700. The physician or provider shall itemize the charges on the standard Health Insurance Claim Form, HCFA 1500 or OWCP 1500 (for professional charges),